

FITZPATRICK



July 6, 2006

Att: Steven Toporoff **FTC Business Opportunity Rule, R511993**
Federal Trade Commission/Office of the Secretary,
Room H-135 (Annex W),
600 Pennsylvania Avenue, NW.,
Washington, DC 20580.

Please find enclosed a documented statistical analysis of the "income opportunity" being marketed by multi-level marketing companies, including the largest and oldest, Amway/Quixtar. As the report author, I submit it in support of comments regarding FTC Business Opportunity Rule, R511993. The report is online at <http://www.falseprofits.com/MythofMLMIncome.doc.pdf>.

Additionally, I request that a Hearing be held to consider the systematic, pervasive deception employed in the multi-level marketing business, in which the conditions laid down for legitimacy in the 1979 FTC Amway case have been grossly and routinely violated. I request a Hearing so that factual data about unfair and deceptive trade practices can be reviewed and their widespread impact considered.

I am also author of the book, *False Profits*, which examines pyramid schemes and multi-level marketing. I have served as consultant and expert witness to the US Dept. of Justice and several state Attorney General offices. I have also delivered seminars to the staff of the FTC, the White Collar Crime Center and the National Association of Consumer Protection Investigators.

An "income opportunity" is, today, the main product in direct selling, not vitamins, legal insurance or skin lotions. And the key selling tools are "income claims." This report reveals that for nearly all investors, the MLM income opportunity is a myth and related income claims are deceptive.

This research documents that 99% of all sales representatives each year in the sample of companies analyzed earned less than \$14 a week in commission income. This figure is BEFORE all business expenses, inventory purchases and taxes are deducted and therefore represents a significant financial loss for virtually all that join these schemes. Additionally, the report shows that on average no net income is earned on average by MLM distributors from door to door "retail" sales.

The devastating loss rates suffered by consumers offer compelling evidence that MLM businesses are operating as disguised pyramid marketing schemes as referenced in the Proposed Rule.

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Publications:



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Therefore, FTC regulation is necessary now. The FTC must ensure that MLM schemes are retail-based, not endless chain scams. And, that they disclose enough financial information for a consumer to see that more than 99% of all investors never earn a profit. This requires disclosing actual RETAIL earnings and average COSTS in each level of the scheme.

The majority of direct selling companies of today that are represented by the Direct Selling Association utilize the multi-level marketing (MLM) model. This model operates outside the FTC Franchise Rule in a regulatory safe haven. Each year, more than 5 million Americans invest in these schemes, at least initially, based on the INCOME CLAIMS. We estimate collective losses each year in excess of \$5 billion. The enormous number of investors and the collective losses make the multi-level marketing business the greatest source of "business opportunity" deception in the marketplace.

Though all products are available on the Internet, in big-box stores, by catalogue or in a multitude of retail outlets, a "business opportunity" can still be sold person-to-person where the factors of trust and relationship can be utilized to "get in the door" and strongly influence a consumer to invest.

MLM companies obscure their devastating failure rates and financial harm by disclosing the number only of "active" participants and limiting the income figures to a one-year or even shorter time frame, thus concealing the factor of the ongoing and mounting losses of new investors. Most MLMs do not reveal any data at all on actual average incomes. None offers a credible estimate of average RETAIL earnings. None offers any information to consumers about associated COSTS related to the "income claims."

Like any other force that contributes to general impoverishment, the losses that are inflicted by these schemes also damage credit worthiness, and break up marriages, end friendships and degrade communities.

Thank you for the opportunity to offer comment. I am prepared to answer questions and to offer additional information.

Sincerely,

Robert L. FitzPatrick, Author
False Profits, Seeking Financial and
Spiritual Deliverance in Pyramid Schemes
and Multi-Level Marketing